

MT LEGISLATIVE HISTORY

Chapter 22 19 79

Bill H _____ S 45

Original bill & hist. C

H. Committee on Human Svcs.

S. Committee on Pub. H, Wel, Safety

Hearing Date(s) Jan 26 ✓ C

Hearing Date(s) Jan 05 ✓ C

_____ C

Jan 10 ✓ C

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Date Out Jan 26 ✓ C

Jan 10 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

CHAPTER NO. 22

SENATE BILL NO. 45

INTRODUCED BY HIMSL, NORMAN, OLSON

BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

January 6, 1979

Introduced and referred to
Committee on Public Health,
Welfare, and Safety.

On Motion Senators Himsl, Norman,
Olson were added as authors to
the Pre-Filed Bill.

January 16, 1979

Committee recommend bill
do pass and placed on Consent
Calendar. Report adopted.

January 17, 1979

Printed and placed on members'
desks.

January 18, 1979

Consent Calendar discussion.

January 19, 1979

Consent Calendar, do pass.
Transmitted to Second House.

IN THE HOUSE

January 20, 1979

Introduced and referred to
Committee on Human Services.

January 27, 1979

Committee recommend bill
be concurred in and placed
on Consent Calendar.
Report adopted.

January 30, 1979

Third Reading Consent Calendar
concurred in.

IN THE SENATE

February 1, 1979

Returned from second house.
Sent to enrolling.

Reported correctly enrolled.

1 SENATE BILL NO. 45
2 INTRODUCED BY _____
3 BY REQUEST OF THE CODE COMMISSIONER
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAWS RELATING TO PROFESSIONAL AND OCCUPATIONAL LICENSING."
7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9 Section 1. Section 37-2-104, MCA, is amended to read:
10 "37-2-104. Dispensing of drugs by medical
11 practitioners unlawful -- exceptions. (1) Except as
12 otherwise provided by this section, it ~~shall be~~ is unlawful
13 for a medical practitioner to engage, directly or
14 indirectly, in the dispensing of drugs.
15 (2) Nothing in this section ~~shall prohibit~~ prohibits:
16 (a) a medical practitioner from furnishing a patient
17 any drug in an emergency;
18 (b) the administration of a unit dose of a drug to a
19 patient by or under the supervision of such medical
20 practitioner;
21 (c) dispensing a drug to a patient by a medical
22 practitioner where whenever there is no community pharmacy
23 available to the patient;
24 (d) the dispensing of drugs occasionally, but not as a
25 usual course of doing business, by a medical practitioner;

1 (e) a medical practitioner from dispensing drug
2 samples."
3 Section 2. Section 37-2-201, MCA, is amended to read:
4 "37-2-201. Nonliability for peer review -- evidential
5 privilege -- application to nonprofit corporations. (1) No
6 member of a utilization review committee of a hospital or
7 long-term care facility or of a professional utilization
8 committee, peer review committee, or professional standards
9 review committee of a society composed of persons licensed
10 to practice a health care profession is liable in damages to
11 any person for any action taken or recommendation made
12 within the scope of the functions of the committee if the
13 committee member acts without malice and in the reasonable
14 belief that the action or recommendation is warranted by the
15 facts known to him after reasonable effort to obtain the
16 facts of the matter for which the action is taken or a
17 recommendation is made.
18 (2) The proceedings and records of professional
19 utilization, peer review, and professional standards review
20 committees are not subject to discovery or introduction into
21 evidence in any proceeding. However, information otherwise
22 discoverable or admissible from an original source is not to
23 be construed as immune from discovery or use in any
24 proceeding merely because it was presented during
25 proceedings before the committee, nor is a member of the

1 committee or other person appearing before it to be
2 prevented from testifying as to matters within his
3 knowledge, but he cannot be questioned about his testimony
4 or other proceedings before the committee or about opinions
5 or other actions of the committee or any member thereof.

6 (3) This section also applies to any member, agent, or
7 nonmember employee of a nonprofit corporation engaged in
8 performing the functions of a peer review or professional
9 standards review committee."

10 Section 3. Section 37-3-322, MCA, is amended to read:

11 "37-3-322. Unprofessional conduct. As used in this
12 chapter, "unprofessional conduct" means:

13 (1) resorting to fraud, misrepresentation, or
14 deception in applying for or in securing a license or in
15 taking the examination provided for in this chapter;

16 (2) performing abortion contrary to law;

17 (3) obtaining a fee or other compensation, either
18 directly or indirectly, by the misrepresentation that a
19 manifestly incurable disease, injury, or condition of a
20 person can be cured;

21 (4) willful disobedience of the rules of the board;

22 (5) conviction of an offense involving moral turpitude
23 or conviction of a felony involving moral turpitude, and the
24 judgment of the conviction, unless pending on appeal, is
25 conclusive evidence of unprofessional conduct;

1 (6) administering, dispensing, or prescribing a
2 narcotic or hallucinatory drug, as defined by the federal
3 food and drug administration or successors, otherwise than
4 in the course of legitimate or reputable professional
5 practice;

6 (7) conviction or violation of a federal or state law
7 regulating the possession, distribution, or use of a
8 narcotic or hallucinatory drug, as defined by the federal
9 food and drug administration, and the judgment or of
10 conviction, unless pending on appeal, is conclusive evidence
11 of unprofessional conduct;

12 (8) habitual intemperance or excessive use of narcotic
13 drugs, alcohol, or any other drug or substance to the extent
14 that the use impairs the user physically or mentally;

15 (9) conduct unbecoming a person licensed to practice
16 medicine or detrimental to the best interests of the public;

17 (10) resorting to fraud, misrepresentation, or
18 deception in the examination or treatment of a person or in
19 billing or reporting to a person, company, institution, or
20 organization;

21 (11) testifying in court on a contingency basis;

22 (12) conspiring to misrepresent or willfully
23 misrepresenting medical conditions improperly to increase or
24 decrease a settlement, award, verdict, or judgment;

25 (13) aiding or abetting in the practice of medicine a

1 person not licensed to practice medicine or a person whose
2 license to practice medicine is suspended;

3 (14) gross malpractice or negligent practice;

4 (15) practicing medicine as the partner, agent, or
5 employee of or in joint venture with a person who does not
6 hold a license to practice medicine within this state;
7 however, this does not prohibit the incorporation of an
8 individual licensee or group of licensees as a professional
9 service corporation under Title 35, chapter 4, nor does this
10 apply to a single consultation with or a single treatment by
11 a person or persons licensed to practice medicine and
12 surgery in another state or territory of the United States
13 or foreign country;

14 (16) violating or attempting to violate, directly or
15 indirectly, or assisting in or abetting the violation of or
16 conspiring to violate parts 1 through 3 of this chapter or
17 the rules authorized by them; or

18 (17) any other act, whether specifically enumerated or
19 not, which, in fact, constitutes unprofessional conduct."

20 Section 4. Section 37-5-101, MCA, is amended to read:

21 "37-5-101. Definitions -- practice of osteopathy. (1)
22 Unless the context requires otherwise, in this chapter the
23 following definitions apply:

24 (a) "Board" means the board of osteopathic physicians
25 provided for in 2-15-1607.

1 (b) "Department" means the department of professional
2 and occupational licensing provided for in Title 2, chapter
3 15, part 16.

4 (2) Every person ~~shall be deemed~~ is "practicing
5 osteopathy" within the meaning of this chapter who ~~shall~~:

6 (a) ~~append~~ appends to or use ~~uses~~ in connection with
7 his or her name the words "doctor of osteopathy, ~~diplomat~~
8 diplomat of osteopathy, osteopath, osteopathist,
9 osteopathic practitioner, osteopathic physician", or words
10 of like import or any abbreviation thereof or the letters
11 "D.O."; or

12 (b) ~~profess~~ professes publicly to or ~~who~~, either on
13 his own behalf, in his own name or in his trade name, or in
14 behalf of any other person, corporation, association,
15 partnership (as manager, bookkeeper, practitioner, or
16 agent), ~~treat~~ treats, ~~cure~~ cures, ~~alleviate~~ alleviates, or
17 ~~relieve~~ relieves any ailment or disease of either mind or
18 body or ~~cure~~ cures or ~~relieve~~ relieves any fracture or
19 misplacement or abnormal condition or bodily injury or
20 deformity by any treatment or manipulation or method of
21 manipulating a human body or any of its limbs, muscles, or
22 parts by the use of the hands or mechanical appliances in an
23 effort or attempt to relieve any pressure, obstruction,
24 misplacement, or defect in any bone, muscle, ligament,
25 nerve, vessel, organ, or part of the body, after having

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received or with the intent or expectation of receiving therefor, either directly or indirectly, any bonus, gift, or compensation whatsoever, provided, however, that nothing in this section shall be construed to restrain restriction or restrict ~~restrict~~ restrict any legally licensed physician or surgeon in the practice of his profession."

Section 5. Section 37-5-102, MCA, is amended to read: "37-5-102. Osteopathy not practice of medicine. The systems, methods or science of treating diseases of the human body commonly known as osteopathy is not the practice of medicine or surgery within the meaning of chapter 3, parts 1 through 3 and is not subject to the provisions of that chapter ~~those parts~~."

Section 6. Section 37-6-311, MCA, is amended to read: "37-6-311. Refusal or revocation of license. ~~After notice and opportunity for a hearing, the board may, after notice and opportunity for a hearing, deny, revoke, or refuse to grant renewal or it may revoke a license under this chapter to a person otherwise qualified who obtained the license by for any of the following causes:~~

- (a) fraudulent representations for in obtaining the license;
- (b) incompetency in practice;
- (c) use of untruthful or improbable statements to patients or in his advertisements;

- (d) habitual intoxication;
- (e) unprofessional and immoral conduct;
- (f) selling or giving away alcohol or drugs for an illegal purpose;
- (g) However, the board may authorize the department to grant or reissue a such license after 6 months if in its judgment the acts, acts or conditions of disqualification have been remedied."

Section 7. Section 37-7-101, MCA, is amended to read: "37-7-101. Definitions. Unless the context requires otherwise, in parts 1 through 3 of this chapter the following definitions apply:

(1) "Board" means the board of pharmacists provided for in 2-19-1609.

(2) "Chemical" means medicinal or industrial substances, whether simple compounds or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.

(3) "Commercial purposes" means the ordinary purposes of trade, agriculture, industry, and commerce, exclusive of the practices of medicine and pharmacy.

(4) "Department" means the department of professional and occupational licensing provided for in Title 2, chapter 15, part 16.

(5) (a) "Drug" means:

(i) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or a supplement to them;

(ii) articles intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(iii) articles (other than food) intended to affect the structure or function of the body of man or other animals; and

(iv) articles intended for use as a component of an article specified in subsection (i), (ii), or (iii).

(b) "Drug" does not include devices or their components, parts, or accessories.

(6) "Intern" means a natural person licensed by the department to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons in a pharmacy having a pharmacist in charge.

(7) "Medicine" means a remedial agent which has the property of curing, preventing, treating, or mitigating diseases or which is used for this purpose.

(8) "Person" includes an individual, partnership, corporation, or association.

(9) "Pharmacist" means a natural person licensed by the department to prepare, compound, dispense, and sell

drugs, medicines, chemicals, and poisons and who may affix to his name the term "REG-PH R.Ph."

(10) "Pharmacy" means a ~~drug-store~~ drugstore or other established place registered by the department of professional and occupational licensing, in which prescriptions, drugs, medicines, chemicals, and poisons are compounded, dispensed, vended, or sold at retail.

(11) "Poison" means a substance which, when introduced into the system, either directly or by absorption, produces violent, morbid, or fatal changes or which destroys living tissue with which it comes in contact.

(12) "Prescription" means an order given individually for the person for whom prescribed, directly from the prescriber to the furnisher or indirectly to the furnisher, by means of an order signed by the prescriber and bearing the name and address of the prescriber, his license classification, the name of the patient, the name and the quantity of the drug or drugs prescribed, the directions for use and the date of its issue. These stipulations apply to both written and telephoned prescriptions.

(13) "Wholesale" means a sale for the purpose of resale."

Section 8. Section 37-7-104, MCA, is amended to read:

"37-7-104. Qualifications of employee hired to assist board. A person hired by the department to enter and inspect

1 an establishment under this chapter; to examine the books of
2 a manufacturer, druggist, storekeeper, wholesaler,
3 pharmacist, or intern; to assist in a prosecution under this
4 chapter; and to assist the board in supervising internships,
5 reciprocity agreements, professional correspondence, and
6 examinations shall be:

7 (1) a citizen of the United States and a resident of
8 this state; and

9 (2) a pharmacist registered under this chapter, with
10 at least 5 years of practical experience."

11 Section 9. Section 37-7-301, MCA, is amended to read:

12 "37-7-301. Sale of drugs or medicines unlawful except
13 as provided. (1) It ~~shall be~~ is unlawful for any person to
14 compound, dispense, vend, or sell at retail drugs,
15 medicines, chemicals, or poisons in any place other than a
16 pharmacy, except as hereinafter provided.

17 (2) It ~~shall be~~ is unlawful for any proprietor, owner,
18 or manager of a pharmacy or any other person to permit the
19 compounding or dispensing of prescriptions or the vending or
20 selling at retail of drugs, medicines, chemicals, or poisons
21 in any pharmacy except by a registered and licensed
22 pharmacist or by an intern in the temporary absence of such
23 pharmacist.

24 (3) It ~~shall be~~ is unlawful for any person falsely to
25 assume or pretend to the title of pharmacist or intern

1 unless such person has a license as such, issued and in
2 force pursuant to the terms of parts 1 through 3 of this
3 chapter.

4 (4) It ~~shall be~~ is unlawful for any person other than
5 a licensed and registered pharmacist or a licensed and
6 registered intern to compound, dispense, vend, or sell at
7 retail drugs, medicines, chemicals, or poisons except as
8 provided in parts 1 through 3."

9 Section 10. Section 37-7-311, MCA, is amended to read:

10 "37-7-311. Revocation of license issued to pharmacist
11 or intern. The board shall revoke, temporarily or
12 permanently, licenses issued by the department to a
13 pharmacist or intern whenever the holder of the license:

14 (1) has obtained it by false representations or fraud;

15 (2) is an habitual drunkard or addicted to the use of
16 narcotic drugs;

17 (3) has been convicted of a felony;

18 (4) has been convicted of violating the pharmacy law;
19 or

20 (5) has been found by the board guilty of incompetency
21 in the preparation of prescriptions or guilty of gross
22 immorality affecting the discharge of his duties as a
23 pharmacist or assistant intern."

24 Section 11. Section 37-15-102, MCA, is amended to
25 read:

1 "37-15-102. Definitions. As used in this chapter, the
2 following definitions apply:

3 (1) "Board" means the board of speech pathologists and
4 audiologists provided for in 2-15-1615.

5 (2) "Department" means the department of professional
6 and occupational licensing provided for in Title 2, Chapter
7 15, part 16.

8 (3) "Speech pathologist" means one who practices
9 speech pathology and who presents himself to the public by
10 any title or description of services incorporating the words
11 "speech pathologist", "speech correctionist", "speech
12 therapist", "speech clinician", "language pathologist",
13 "language therapist", "language clinician", or any similar
14 title or description of services.

15 (4) "Speech pathology aide" means any person meeting
16 the minimum requirements established by the board of speech
17 pathologists and audiologists who works directly under the
18 supervision of a licensed speech pathologist.

19 (5) "Audiologist" means a person who practices
20 audiology and who presents himself to the public by any
21 title or description of services incorporating the words
22 "audiologist", "hearing clinician", "hearing therapist", or
23 any similar title or description of service services.

24 (6) "Audiology aide" means any person meeting the
25 minimum requirements established by the board of speech

1 pathologists and audiologists who works directly under the
2 supervision of a licensed audiologist.

3 (7) "Practice of speech pathology" means the
4 application of principles, methods, and procedures for the
5 measurement, testing, evaluation, prediction, counseling, or
6 instruction related to the development and disorders of
7 speech, voice, or language for the purpose of evaluating,
8 preventing, habilitating, rehabilitating, or modifying such
9 disorders and conditions in individuals or groups of
10 individuals.

11 (8) "Practice of audiology" means the application of
12 principles, methods, and procedures of measurement, testing,
13 appraisal, prediction, consultation, counseling, and
14 instruction related to hearing and hearing impairment for
15 the purpose of modifying communicative disorders involving
16 speech, language, or auditory function, including auditory
17 behavior related to hearing impairment.

18 (9) "Association" means the Montana speech and hearing
19 association.

20 (10) "ASHA" means the American speech and hearing
21 association.

22 (11) "Unethical conduct" means:

23 (a) the obtaining of any fee by fraud or
24 misrepresentation;

25 (b) employing, directly or indirectly, any suspended

1 or unlicensed person to perform any work covered by this
2 chapter unless that person assumes the legal status of a
3 supervised aide;

4 (c) using or causing or promoting the use of any
5 advertising matter, promotional literature, testimonial,
6 guarantee, warranty, label, brand, insignia, or any other
7 representation, however disseminated or published, which is
8 misleading, deceiving, improbable, or untruthful.

9 (12) "Provisionally licensed speech pathologist or
10 audiologist" means those speech pathologists or audiologists
11 currently practicing the profession in the state who do not
12 meet the minimum requirements for licensure as defined in
13 this chapter and who are eligible for provisional licensure
14 conditioned on biennial evidence of satisfactory progress
15 toward meeting the requirements for licensure as provided in
16 this chapter. This provisional licensure, as defined in this
17 chapter, shall ~~pay~~ exist for no longer than 6 years from the
18 ~~date of enactment of this chapter July 1, 1975~~ under any
19 circumstance."

20 Section 12. Section 37-16-203, MCA, is amended to
21 read:

22 "37-16-203. Compensation of members -- expenses. Each
23 member of the board shall receive \$20 a day compensation
24 when actually engaged in the discharge of his official duty
25 and in addition shall also be reimbursed for travel expense,

1 as provided for in 2-18-501 through 2-18-503, in attending a
2 meeting of the board in the state."

3 Section 13. Section 37-17-102, MCA, is amended to
4 read:

5 "37-17-102. Definitions. Unless the context requires
6 otherwise, in this chapter the following definitions apply:

7 (1) "Accredited college or university" means a college
8 or university accredited by the regional accrediting
9 association for institutions of higher learning, such as the
10 northwest association of secondary and higher schools.

11 (2) "Board" means the board of psychologists provided
12 for in 2-15-1617.

13 (3) "Department" means the department of professional
14 and occupational licensing provided for in Title 2, chapter
15 15, part 16.

16 (4) A person represents himself to be a "psychologist"
17 when he holds himself out to the public by a title or
18 description of services incorporating the words
19 "psychologist", "psychological", "psychologic", or
20 "psychology" and offers to render or renders psychological
21 services defined in subsection (5) of this section to
22 individuals, groups, corporations, or the public for
23 compensation or fee.

24 (5) "Practice of psychology" means the application of
25 principles, methods, and procedures of understanding,

1 predicting, and influencing behavior, such as the principles
 2 pertaining to learning, perception, motivation, thinking,
 3 ~~notions~~ emotions, and interpersonal relationship; the
 4 methods and procedures of interviewing, counseling, and
 5 behavior modification, including psychotherapeutic
 6 techniques and hypnosis; and constructing, administering,
 7 and interpreting tests of mental abilities, aptitudes,
 8 interests, attitudes, personality characteristics, emotions,
 9 and motivation."

10 Section 14. Section 31-17-104, NCA, is amended to
 11 read:

12 "31-17-104. Exemptions. This chapter does not prevent:

13 (1) qualified members of other professions, such as
 14 physicians, social workers, lawyers, pastoral counselors, or
 15 educators, from doing work of a psychological nature
 16 consistent with their training and the codes of ethics of
 17 their respective professions if they do not hold themselves
 18 out to the public by a title or description incorporating
 19 the words "psychology" or "psychologist";

20 (2) the activities, services, and use of an official
 21 title on the part of a person in the employ of a federal,
 22 state, county, or municipal agency or of other political
 23 subdivisions or an educational or charitable institution
 24 insofar as these activities and services are a part of the
 25 duties of his office or position with the agency or

1 institution;

2 (3) the activities and services of a student, intern,
 3 or resident in psychology pursuing a course of study at an
 4 accredited university or college or working in a generally
 5 recognized training center if these activities and services
 6 constitute a part of his supervised course of study;

7 (4) the activities and services of a person who is not
 8 a resident of this state in rendering consulting
 9 psychological services in this state when these services are
 10 rendered for a period which does not exceed, in the
 11 aggregate, ~~more--than~~ 60 days during a calendar year if the
 12 person is authorized under the laws of the state or country
 13 of his residence to perform these activities and services;
 14 however, these persons shall report to the department the
 15 nature and extent of the services in this state if they
 16 exceed 10 days in a calendar year;

17 (5) a person authorized by the laws of the state or
 18 country of his former residence to perform activities and
 19 services, who has recently become a resident of this state
 20 and who has applied for a license in this state, ~~from~~
 21 performing such activities and services pending disposition
 22 of his application;

23 (6) the use of the term "social psychologist" by a
 24 person who:

25 (a) has been graduated with a doctoral degree in

sociology or social psychology from an institution and whose credits in sociology or social psychology are acceptable by a recognized educational institution;

(b) has passed comprehensive examinations in the field of social psychology as part of the requirement for the doctoral degree or who has had equivalent specialized training in social psychology; and

(c) has filed with the department a statement of facts demonstrating his compliance with this subsection;

(7) the offering of lecture services for a fee by a person exempted from licensing requirements by virtue of this employment;

(8) activities of a psychological nature on the part of persons ~~a person who~~ ~~is a salaried employee~~ ~~employee~~ of an accredited academic institution, institution, governmental agencies agency, research laboratories laboratory, and or business corporations corporation if ~~these employees are~~ ~~he is~~ performing the duties for which ~~they are~~ ~~he is~~ employed by the organizations organization within the confines of the organization."

Section 15. Section 37-31-203, MCA, is amended to read:

"37-31-203. Rulemaking powers. The board shall prescribe rules for:

(1) the conduct of its business;

(2) the qualification, examination, and registration of applicants to practice or teach cosmetology;

~~(3) the qualification and registration of applicants for manager-operator licenses;~~

~~(4) the regulation and instruction of apprentices and students;~~

~~(5) the conduct of schools of cosmetology for apprentices and students; and~~

~~(6) generally the conduct of the persons, firms, or corporations affected by this chapter."~~

Section 16. Section 37-31-322, MCA, is amended to read:

"37-31-322. Renewal -- continuing education -- delinquency fee. (1) Licenses and certificates shall be issued for no longer than 1 year unless otherwise provided by rule. Licenses and certificates expire on December 31 unless otherwise provided by rule or renewed for the next year or renewal period. Licenses and certificates may be renewed by application made prior to December 31 of each year, unless otherwise provided, and the payment of a required renewal fee. Expired licenses and certificates may be renewed under rules made by the board, but the right to renew an expired license or certificate terminates after 10 years of nonpayment. The board may provide by rule for a change in the renewal date and renewal period for the

1 manager-operator and salon owner category. The renewal fee
2 may not exceed twice the fee for a 2-year renewal or three
3 times the fee for a 3-year renewal and shall be as set by
4 the board.

5 (2) In addition to the foregoing requirements for
6 renewal, persons applying for the renewal of teachers'
7 licenses must have fulfilled the following additional
8 requirements:

9 (a) During each year, an active teacher, either
10 full-time or part-time, must have successfully completed 30
11 hours ~~hours~~ professional teacher training at a school
12 approved by the board ~~as a prerequisite to the renewal of~~
13 ~~the teacher's license.~~

14 (b) A person holding a teacher's license but not
15 actively engaged either full-time or part-time in teaching
16 cosmetology during the preceding year may renew the license
17 by paying the required fee. A person holding a teacher's
18 license but not actively engaged in teaching cosmetology
19 either full-time or part-time for the preceding year or
20 longer and wishing to resume active teaching of cosmetology
21 must successfully complete 30 hours ~~hours~~ professional
22 teachers' training at a school approved by the board before
23 resuming active ~~teachers' training teaching.~~ However, the
24 foregoing provisions do not prevent the board, under rules
25 it adopts, from permitting a person holding a teacher's

1 license and not actively engaged either full-time or
2 part-time in teaching cosmetology from teaching as a
3 substitute for an active teacher.

4 (3) A fee of \$10 shall be charged, in addition to
5 other fees fixed by law, for renewal applications of
6 licenses and certificates made after December 31 of each
7 year or other predetermined renewal deadline. The department
8 shall notify license and certificate holders of the
9 expiration date of licenses and certificates not less than
10 30 days before the expiration date and call attention to the
11 penalty imposed for failure to renew a license or
12 certificate by the date of expiration."

13 Section 17. Section 37-40-307, MCA, is amended to
14 read:

15 "37-40-307. Sanitarian practicing prior to effective
16 date. ~~All persons~~ A person having practiced as a sanitarian,
17 as defined by 37-40-101(5), for 1 year prior to July 1,
18 1974, may be registered as ~~sanitarians~~ a sanitarian upon
19 making application and ~~payment of paying~~ the required fee."

20 Section 18. Section 37-41-102, MCA, is amended to
21 read:

22 "37-41-102. Exemptions. The license provisions of this
23 chapter do not apply to any county or municipality or other
24 local, state, or federal governmental agency which desires
25 to clean septic tanks, cesspools, or privies publicly owned

or controlled by them. However, counties and municipalities or other local, state, or Federal governmental agencies shall comply with rules adopted by the department for cleaning cesspools, septic tanks, or privies and disposal of wastes from cesspools, septic tanks, or privies."

Section 19. Section 37-43-302, WCA, is amended to read:

"37-43-302. License required. The drilling, sinking, or construction of water wells into the groundwater resources of this state is declared to be a business and activity affecting the public interest, requiring reasonable standards of competence. It ~~shall be~~ is unlawful for any person ~~contractor~~, as defined in this chapter, to construct a water well without first having obtained a valid license therefor as provided for ~~herein in this chapter.~~"

Section 20. Section 37-50-308, WCA, is amended to read:

"37-50-308. Examination. Except as provided in 37-1-101(4), the department shall hold and grade a written examination in accounting, auditing, and related subjects as the board determines appropriate. The grade determination of the department is final in each case. The department shall use the examination and grading services of the American institute of certified public accountants. The examination ~~shall~~ must be held at least annually and at such other times

as applications warrant. The board may determine the time and place of examination and may adopt rules necessary for the orderly conduct of the examinations."

Section 21. Section 37-51-308, WCA, is amended to read:

"37-51-308. Broker's office -- Notice to department of change of address. (1) A resident licensed broker shall maintain a fixed office in this state. The original license of the broker and the original license of each salesman in the employ of or under contract with the broker shall be prominently displayed in the office. The address of the office and a ~~any~~ branch office shall be designated on the broker's license.

(2) In case of removal from the designated address, the licensee shall notify the department before removal or within 10 days thereafter, designating the new location of this office and paying the required fee, whereupon a license for the new location ~~for the unexpired period shall~~ must be issued ~~for the unexpired period.~~"

Section 22. Section 37-60-304, WCA, is amended to read:

"37-60-304. Qualifications of applicants. Before an ~~application~~ for a license is granted, the applicant or his manager shall meet all of the following:

(1) be at least 18 years of age;

1 (2) be a citizen of the United States and a resident
2 of the state of Montana;

3 (3) be of good moral character and temperate habits;
4 and

5 (4) comply with such other qualifications concerning
6 training, education, or experience as the director may fix
7 by rule."

8 Section 23. Section 37-61-409, MCA, is amended to
9 read:

10 "37-61-409. Penalty for violation. An attorney and
11 counselor who violates ~~37-61-407 or 37-61-408(1)~~ is guilty
12 of a misdemeanor and on conviction thereof shall be punished
13 accordingly and must be removed from office by the supreme
14 court."

15 Section 24. Section 37-66-103, MCA, is amended to
16 read:

17 "37-66-103. Definitions. As used in this chapter, the
18 following definitions apply:

19 (1) "Board" means the board of landscape architects
20 provided for in 2-15-1652.

21 (2) "Department" means the department of professional
22 and occupational licensing provided for in Title 2, chapter
23 15, part 16.

24 (3) "Education" means time spent as a student enrolled
25 in a college or school curriculum of landscape architecture

1 accredited by the American society of landscape architects
2 and other college or university training the board may
3 approve.

4 (4) "Experience" means full-time employment as a
5 landscape architect or doing landscape architectural work
6 under the supervision of a registered landscape architect or
7 a landscape architect qualified for registration in Montana.
8 All experience is subject to approval by the board.

9 (5) "Landscape architect" means a person who holds a
10 certificate to practice landscape architecture in the state
11 of Montana under the provisions of this chapter.

12 (6) "Practice of the profession of landscape
13 architecture" means performing services in connection with
14 the analysis or development of land areas where and to the
15 extent that the dominant purpose of such services is the
16 preservation, enhancement, or determination of proper land
17 uses, natural land features, ground cover and planting,
18 naturalistic and aesthetic values, the settings, approaches,
19 or environment for structures or other improvements, natural
20 drainage, and the consideration and determination of
21 inherent problems of the land relating to erosion, wear and
22 tear, blight, or other hazards. This practice ~~shall include~~
23 includes the location and arrangement of such tangible
24 objects and features as are incidental and necessary to the
25 purposes outlined herein but ~~shall does~~ not include the

1 design of structures or facilities with separate and
2 self-contained purposes that are ordinarily included in the
3 practice of engineering or architecture and ~~shall does not~~
4 include the making of land surveys or final land plats for
5 official approval or recording.

6 (7). "Training" means a period ~~of at least 6 years of~~
7 experience and/or education ~~of at least 6 years~~ as defined
8 herein."

9 Section 25. Section 37-67-101, MCA, is amended to
10 read:

11 "37-67-101. Definitions. As used in this chapter, the
12 following definitions apply:

13 (1). "Board" means the board of professional engineers
14 and land surveyors ~~provided for in 2-15-1653.~~

15 (2). "Department" means the department of professional
16 and occupational licensing ~~provided for in Title 2, chapter~~
17 ~~15, part 16.~~

18 (3). "Engineer-in-training" means a person who complies
19 with the requirements for education, experience, and
20 character and has passed an examination in the fundamental
21 engineering subjects as provided in this chapter.

22 (4). "Land surveyor" means a person who has been duly
23 registered and licensed as a land surveyor by the board and
24 is a professional specialist in the technique of measuring
25 lands, educated in the basic principles of mathematics,

1 related physical and applied sciences, and relevant
2 requirements of law for adequate evidence and all requisites
3 to the surveying of real property and is engaged in the
4 practice of land surveying as herein defined.

5 (5). "Land surveyor-in-training" means a person who has
6 qualified for, taken, and passed an examination on the basic
7 disciplines of land surveying as provided in this chapter.

8 (6). "Practice of engineering" means any service or
9 creative work the adequate performance of which requires
10 engineering education, training, and experience in the
11 application of special knowledge of the mathematical,
12 physical, and engineering sciences to such services or
13 creative work as consultation, investigation, evaluation,
14 planning and design of engineering works and systems,
15 planning the use of water, teaching of advanced engineering
16 subjects, engineering surveys, and the inspection of
17 construction for the purpose of assuring compliance with
18 drawings and specifications; any of which embraces such
19 services or work, either public or private, in connection
20 with any utilities, structures, buildings, machines,
21 equipment, processes, work systems, projects, and industrial
22 or consumer products or equipment of mechanical, electrical,
23 hydraulic, pneumatic, or thermal nature insofar as they
24 involve safeguarding life, health, or property and including
25 such other professional services as may be necessary to the

1 planning, progress, and completion of any engineering
2 services. The term does not include the work ordinarily
3 performed by persons who operate or maintain machinery or
4 equipment, communication lines, signal circuits, electric
5 powerlines, or pipelines.

6 (7) "Practice of land surveying" means any service or
7 work, the adequate performance of which requires the
8 application of knowledge of the principles of mathematics,
9 physical sciences, applied sciences, and:

10 (a) the principles of property boundary law to the
11 recovery and preservation of evidence pertaining to earlier
12 land surveys;

13 (b) teaching of land surveying subjects;

14 (c) measurement and allocation of lines, angles, and
15 elevations;

16 (d) location of natural and manmade features in the
17 air, on the surface of the earth, within underground
18 workings, and on the beds of bodies of water, including such
19 work for the determination of areas and volumes;

20 (e) monumenting of property boundaries;

21 (f) platting and layout of lands and the subdivisions
22 thereof, including the alignment and grades of streets and
23 roads therein; and

24 (g) preparation and perpetuation of maps, plats, field
25 note records, and property descriptions.

1 (8) "Professional engineer" means a person who, by
2 reason of his special knowledge and use of the mathematical,
3 physical, and engineering sciences and the principles and
4 methods of engineering analysis and design acquired by
5 engineering education and engineering experience, is
6 qualified to practice engineering and who has been duly
7 registered and licensed as a professional engineer by the
8 board.

9 (9) "Responsible charge" means direct control and
10 personal supervision either of engineering work or of land
11 surveying, as the case may be. Only professional engineers
12 or land surveyors may legally assume responsible charge
13 under this chapter."

14 Section 26. Section 37-67-319, MCA, is amended to
15 read:

16 "37-67-319. Temporary permits for nonresident
17 practitioners. Temporary permits are governed by the
18 following:

19 (1) Such a permit may be granted for the the practice
20 or offer to practice engineering by a person not a resident
21 of or having no established place of business in this state,
22 provided such person is legally qualified by registration to
23 practice engineering in his own state or country, provided
24 the requirements for registration in his home state or
25 country are not less than those defined in this chapter.

1 Such person shall make application to the board in writing.
 2 The application must be accompanied by a fee set by the
 3 board. Upon approval by the board, such person may be
 4 granted a written permit for a definite period of time not
 5 to exceed 1 year to do a specific job; provided, however, no
 6 right to practice engineering shall accrue to such applicant
 7 with respect to any other works not set forth in said the
 8 permit.

9 (2) The practice of land surveying under a temporary
 10 permit by a person registered as a land surveyor in another
 11 state is not considered to be in the best interests of the
 12 public and, therefore, shall ~~may~~ not be granted."

13 Section 27. Section 37-69-103, MCA, is amended to
 14 read:

15 "37-69-103. No penalty for hiring unlicensed plumber.
 16 This chapter shall ~~may~~ not be construed as imposing any
 17 penalty on any unlicensed person for hiring or contracting
 18 with an unlicensed person to do work in the field of
 19 plumbing. However, any person who shall himself engage
 20 engages in the field of plumbing at a time when he is not
 21 duly licensed shall be ~~is~~ subject to the penalties imposed
 22 by this chapter."

23 Section 28. Section 37-70-203, MCA, is amended to
 24 read:

25 "37-70-203. Compensation and expenses. Each member of

1 the board is entitled to \$25 per day for each day served
 2 discharging his board duties, together with a per diem and
 3 mileage expense allowance pursuant to 2-18-501 and through
 4 2-18-503. No member of the board shall ~~may~~ be allowed
 5 compensation in addition to his present compensation from
 6 the state."

7 Section 29. Repealer. Sections 66-1701 through
 8 66-1714, R.C.M. 1947, are repealed.

-End-

COMMITTEE ON Public Health, Welfare & Safety

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO NOT PASS <u>DATE</u>	DO NOT PASS <u>DATE</u>	DO PASS AS AMEND. <u>DATE</u>	BE CON- CURRED IN <u>DATE</u>	BE CONC. IN AS AMENDED <u>DATE</u>	BE NOT CON- CURRED IN <u>DATE</u>
45	1-08-79	1-10-79	1-15-79	1-10-79					
61	1-09-79	1-15-79	2-13-79			2-09-79			
97	1-15-79	2-16-79	2-19-79	2-16-79					
100	1-15-79	1-19-79	2-13-79			2-09-79			
109	1-16-79	1-24-79	2-08-79			2-05-79			
125	1-16-79	1-22-79	1-24-79	1-22-79					
127	1-16-79	1-22-79	1-24-79	1-22-79					
136	1-16-79	1-24-79	2-04-79		1-31-79				
151	1-18-79	1-26-79	2-02-79		1-31-79				
159	1-18-79	1-26-79	2-02-79		1-31-79				
175	1-19-79	1-29-79	2-07-79			2-05-79			
186	1-22-79	1-29-79	2-02-79	1-31-79					
238	1-24-79	2-07-79	2-19-79			2-16-79			
315	1-31-79	2-12-79	2-14-79		2-12-79				
331	2-01-79	2-12-79	2-14-79	2-12-79					
373	2-06-79	2-14-79	2-19-79		2-16-79				

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MINUTES OF THE MEETING

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

January 5, 1979

The first meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Olson on the above date in Room 410 of the State Capitol Building at approximately 12:20 p.m.

ROLL CALL: All members were present.

This meeting marked the opening of the Public Health, Welfare and Safety Committee and was primarily an orientation session.

Senator Rasmussen is going to sponsor Senate Bill 28; Senator Norman will sponsor Senate Bill 61; and Senator Himsl will sponsor Senate Bill 45. SB45 will be heard in Committee on Wednesday, January 10, 1979.

ADJOURN: There being no further business, the meeting was adjourned at 12:40 p.m.



S. A. OLSON, CHAIRMAN

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

January 10, 1979

The second meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Olson on the above date in Room 410 of the State Capitol Building at approximately 1:30 p.m. Chairman Olson asked all visitors and testifiers to sign the register.

ROLL CALL: All members were present, except Senator Rasmussen who arrived later in the meeting.

CONSIDERATION OF SENATE BILL NO. 45: Senate Bill 45, by request of the Code Commissioner, would generally revise the law related to professions and occupations.

Chairman Olson asked Senator Hims1, sponsor of Senate Bill 45, to explain the bill. Senator Hims1 went through a summary of the changes contained in Senate Bill 45. See Exhibit "A."

Chairman Olson asked if anyone was present to testify for the bill. Bob Pyfer, staff attorney with the Legislative Council, stated that he had drafted the bill and was present to answer any questions. Senator Ryan wanted to know why some boards get \$20 per day and some boards get \$25 per day. Senator Hims1 explained that the scales were developed over the years and each board's pay was set at the going rate at the time the board was established. He stated that there will be legislation introduced to equalize the rates.

ACTION ON SENATE BILL 45: Senator Palmer moved that Senate Bill No. 45 "DO PASS." The motion was seconded and carried unanimously.

Senator Ryan asked if the Senate has a consent rule. Senator Norman said that the Rules Committee was meeting this afternoon to decide that. Senator Ryan would like to have Senate Bill 45 put on consent calendar if possible. Chairman Olson said he could hold the bill for a couple of days to see if it could be put on consent calendar. Senator Ryan moved that Chairman Olson place Senate Bill No. 45 on the consent calendar if it is possible to do so. The motion was seconded and carried unanimously.

ANNOUNCEMENTS: Chairman Olson indicated that the Committee would meet on Monday, January 15, 1979, to hear Senate Bill No. 61.

ADJOURN: There being no further business, the meeting was adjourned at 2:00 p.m.


S. A. OLSON, CHAIRMAN



Montana Legislative Council

State Capitol

Helena, 59601

(406) 449-3064

HOUSE MEMBERS
JOHN B. DRISCOLL
OSCAR KVALEN
J.D. LYNCH
ROBERT L. MARKS
H. DAVID COGLEY
DIRECTOR, LEGAL SERVICES
ROBERT PERSON
DIRECTOR, RESEARCH

LC 0013

1979 Legislature
Code Commissioner Bill - Summary

SENATE Bill No. 45

AN ACT TO GENERALLY REVISE THE LAW RELATED TO PROFESSIONS
AND OCCUPATIONS.

(This summary does not include discussion of routine form
or grammatical changes.)

Section 1. 37-2-104. In (2)(d), added "of drugs" to
clarify and correct apparent inadvertent omission.

Section 2. 37-2-201. In (3), changed "any member or
nonmember of a nonprofit corporation" to "any member, agent,
or employee of a nonprofit corporation" to correct ambiguity.

Section 3. 37-3-322. In (7), changed "judgment or
conviction" to "judgment of conviction" to correct obvious
error.

Section 4. 37-5-101. In (2)(a), changed "diplomat of
osteopathy" to "diplomate of osteopathy" to correct obvious
spelling error. Webster's defines "diplomate" as "a doctor
who is certified as a specialist by an examining board in a
particular branch of medicine".

Section 5. 37-5-102. Changed "that chapter" to "those
chapters" for consistency with internal reference.

Section 6. 37-6-311. Amended to correct awkward language.

Section 7. 37-7-101. In (9), changed "REG-PH" to
"R.Ph." to conform to current practice of designation of registered
pharmacists.

Section 8. 37-7-104. In (2), added "at least" to clarify and conform to obvious intent that board assistant have 5 or more years of experience rather than exactly 5 years of experience,

Section 9. 37-7-301. In (3), deleted "falsely" as redundant. If an unlicensed person assumes the title of pharmacist, this action is false by definition. Also, as subsection formerly read, it appeared to say that a licensed person could "falsely" assume the title.

Section 10. 37-7-311. In (5), changed "assistant" to "intern" to clarify and make consistent with the rest of the section and pharmacy licensure law.

Section 11. 37-15-102. In definition of "board", added reference to provision of Title 2 creating the board for clarity and convenience and to make uniform with other licensure statutes.

Section 12. 37-16-203. Changed "\$20 compensation" to "\$20 a day compensation" for clarification.

Section 13. 37-17-102. In (5), changed "motions" to "emotions" to correct apparent typographical error. This change is approved by Dr. Mozer of the board of psychologists.

Section 14. 37-17-104. In (5), added language to clarify and make grammatically consistent with lead-in,

In (8), changed nouns and pronouns to singular form for consistency with rest of section.

Section 15. 37-31-203. In (3), added language for clarification and to make consistent with lead-in. The term "examination" is left out of new subsection (3) since a separate examination is not required for a manager-operator license,

Section 16. 37-31-322. In (2)(a), deleted language redundant with lead-in.

In (2)(b), changed "teachers' training" to "teaching" to make sentence sensible and to conform to obvious intent. Before amendment, sentence literally said that a person licensed to teach who is inactive for 1 year must take teachers' training before resuming active "teachers' training".

Section 17. 37-40-307. Amended to make all nouns singular for grammatical consistency.

Section 18. 37-41-102. Changed "or" to "of" to correct apparent inadvertent error.

Section 19. 37-43-302. Changed "person, as defined in this chapter" to "contractor as defined in this chapter". "Person" is not defined in the chapter. The definition of "contractor" in the chapter is what was apparently intended since this has the effect of requiring licensure only of those who construct wells on other people's land and for compensation. This conforms to 37-43-103 on exemptions.

Section 20. 37-50-308. Changed "American institute of certified accountants" to "American institute of certified public accountants" since the latter is the correct name of that organization.

Section 21. 37-51-308. Changed "a" to "any" to clarify that a branch office is not a requirement.

Section 22. 37-60-304. Changed "Before an application for a license is granted" to "Before a license is granted". Licenses are granted, not applications. The deleted language is surplusage.

Section 23. 37-61-409. Changed "37-61-407 or 37-61-408(1)" to "37-61-408" to clarify the application of this penalty provision. This section was formerly the last sentence of 93-2108, R.C.M., the prior sentence containing a prohibition. The penalty was stated to apply to "the last two sections". It was unclear whether this meant "this section and the preceding section" or literally "the 2 preceding sections". From the context it appears that "this section and the preceding section" (which corresponds with MCA 37-61-408) was intended since those provisions are otherwise without a specific civil or criminal penalty and are of related subject matter.

Section 24. 37-66-103. See explanation for Section 10.

Section 25. 37-67-101. See explanation for Section 10.

Section 26. 37-67-319. Amended to make first part of (1) a complete sentence.

Section 27. 37-69-103. Added "unlicensed" to avoid conflict with 37-69-323 which prohibits licensed master plumbers from hiring unlicensed journeyman plumbers.

Section 28. 37-70-203. Added reference to 2-18-502 which provides for computation of the meal allowance, which allowance is provided for in 2-18-501. Section 2-18-501 was already mentioned in 37-70-203. Since 2-18-502 is inextricably tied to 2-18-501, this amendment makes no substantive change but is merely for convenience.

Section 29. Repealing 66-1701 through 66-1714, R.C.M.
These sections consisting of a photography licensure law
were declared wholly unconstitutional by the Montana Supreme
Court in State v. Gleason, 128 M 485. The Court held the law
to be an improper exercise of the police power and therefore
an unconstitutional denial of liberty and property under the
14th Amendment.

HUMAN SERVICES COMMITTEE

46th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB-409	Establish a medical review board to investigate and maintain quality control of medical control in the state prison.	1/26/79	Holmes	None, as per a request from the Chair and Sponsor.	None	
HB-418	Increase payment to day-care facilities.	1/26/79	Kemmis		Referred to Appropriations. 1/30/79	
SB-45	Revise laws relating to professional and occupational licensing	1/22/79	Himsel	1/26/79	Be concurred in sent to Consent Calendar	1/26/79
HB-463	Transfer tetrahydrocannabinols from Schedule I to Schedule III to allow prescriptive use of such materials within Federal authorization.	1/30/79	Gould	2/9/79	Do Pass	2/12/79
HB-711	Act to remove citizenship requirement for a physician's certificate to practice medicine and require they be English speaking.	2/12/79	Kropp	2/16/79	Do Pass	2/16/79
HB-451	Appropriate funds to set up a child-care program in Kalispell.	2/2/79	Keedy	2/2/79	As Amended Do Pass	2/9/79

HUMAN SERVICES COMMITTEE PROCEEDINGS:

A Human Services Committee meeting was held on January 26, 1979 in the Capitol Annex room #20. The meeting was called to order by Chairman Polly Holmes at 1:30 and all members were present.

HOUSE BILL #206--SPONSOR: Rep. Steve Waldron, District #97, introduced his bill to eliminate the medical-related qualifications for the Director of the Department of Health and Environmental Sciences and to provide for a Deputy Director who must be a physician. The reason behind this bill is that in the past, there have been problems because the Director of this department has had no experience or knowledge of administrative duties. PROPONENTS: Dr. Jack McMahon, Medical Association, said that the purpose is to allow the appointment of this Director who doesn't necessarily have to be a doctor. A doctor is trained to do just that, not to be an administrator. An exception has been with Dr. Knight, but in the past there have been a lot of problems because of the lack of expertise in running such a department. This bill also provides for a deputy director who must be a doctor who could advise the administrator on medical-related problems. OPPONENTS: Mr. David Lackman, Montana Health Association, feels that although the department Director should be a competent administrator, it is more important that he have a medical background. Increasing responsibilities for supervision of medical services for state departments of health are on the way and non-medical personnel in the Department require supervision by a person licensed to practice medicine in Montana. This is a legal requirement and cannot be assumed by a deputy director. Details of administration can be handled by an administrative assistant under policies formulated by the Director and the Board. A do not pass is recommended. Mr. Jerome T. Iecndorf, Montana Medical Association, said that he had been lobbying since 1971 for this and other medical related organizations and feels that a medical degree is necessary because of the technical sub-systems and that a layman wouldn't know how to handle the reports, etc. Out of 50 states, only six do not have doctors as the heads of their Health Departments. I urge you to give this a do not pass. Don Pratt, Optometric Association, said that he concurred with others and that he had previously worked with the Health Department. He felt that without having a physician as the Director of this Department that many of the functions could not have been implemented. Also, passage of this bill would entail many changes in current rules. I urge a do not pass on this bill.

SENATE BILL #45--SPONSOR: Senator Himsel, District 9, introduced his bill with his apologies for taking up the committee's time to correct changes in laws relating to professional and occupational licensing; but they do deserve our scrutiny. These changes are not substantive, but rather primarily punctuation, spelling, grammar or typographical changes. PROPONENTS: Mr. Bob Pyfer, representing the Code Commissioner, claimed to be available for any questions and that his office request that the committee give a do pass recommendation.

The following action was taken:

Senate Bill #45 was given a do pass recommendation to the Consent Calendar by Rep. O'Connell. The motion was passed unanimously.

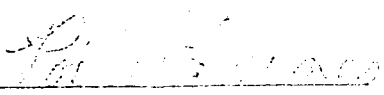
House Bill #206 was given a do not pass recommendation by Rep. Fabrega. The motion was carried with an 18 to one vote in it's favor.

House Bill #34 was given a do pass as amended by Rep. Frates. The motion was passed unanimously.

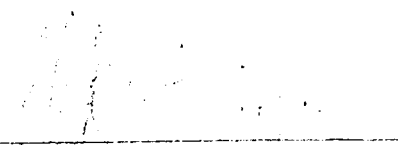
House Bill #112 was given a do pass as amended by Rep. Gould. The motion was pass unanimously.

House Bill #201 was given a do not pass recommendation by Rep. Keyser. A substitute motion was made by Rep. Azzara to table the bill for further action. This motion was not carried with a 15 to 4 vote. A do no pass recommendation was made by Rep. Stobie which carried with a 15 to 4 vote also.

The committee meeting was adjourned at 3:30 by Chairman Holmes.



CHAIRMAN



SECRETARY

SENATE BILL NO. 45

INTRODUCED BY HIMSL, NORMAN, OLSON

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO PROFESSIONAL AND OCCUPATIONAL LICENSING."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-2-104, MCA, is amended to read:

"37-2-104. Dispensing of drugs by medical practitioners unlawful -- exceptions. (1) Except as otherwise provided by this section, it ~~shall be~~ is unlawful for a medical practitioner to engage, directly or indirectly, in the dispensing of drugs.

(2) Nothing in this section ~~shall prohibit~~ prohibits:

(a) a medical practitioner from furnishing a patient any drug in an emergency;

(b) the administration of a unit dose of a drug to a patient by or under the supervision of such medical practitioner;

(c) dispensing a drug to a patient by a medical practitioner ~~where~~ whenever there is no community pharmacy available to the patient;

(d) the dispensing of drugs occasionally, but not as a usual course of doing business, by a medical practitioner;

(e) a medical practitioner from dispensing drug samples."

Section 2. Section 37-2-201, MCA, is amended to read:

"37-2-201. Nonliability for peer review -- evidential privilege -- application to nonprofit corporations. (1) No member of a utilization review committee of a hospital or long-term care facility or of a professional utilization committee, peer review committee, or professional standards review committee of a society composed of persons licensed to practice a health care profession is liable in damages to any person for any action taken or recommendation made within the scope of the functions of the committee if the committee member acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to him after reasonable effort to obtain the facts of the matter for which the action is taken or a recommendation is made.

(2) The proceedings and records of professional utilization, peer review, and professional standards review committees are not subject to discovery or introduction into evidence in any proceeding. However, information otherwise discoverable or admissible from an original source is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before the committee, nor is a member of the

1 committee or other person appearing before it to be
2 prevented from testifying as to matters within his
3 knowledge, but he cannot be questioned about his testimony
4 or other proceedings before the committee or about opinions
5 or other actions of the committee or any member thereof.

6 (3) This section also applies to any member, agent, or
7 nonmember employee of a nonprofit corporation engaged in
8 performing the functions of a peer review or professional
9 standards review committee."

10 Section 3. Section 37-3-322, MCA, is amended to read:
11 "37-3-322. Unprofessional conduct. As used in this
12 chapter, "unprofessional conduct" means:

13 (1) resorting to fraud, misrepresentation, or
14 deception in applying for or in securing a license or in
15 taking the examination provided for in this chapter;

16 (2) performing abortion contrary to law;

17 (3) obtaining a fee or other compensation, either
18 directly or indirectly, by the misrepresentation that a
19 manifestly incurable disease, injury, or condition of a
20 person can be cured;

21 (4) willful disobedience of the rules of the board;

22 (5) conviction of an offense involving moral turpitude
23 or conviction of a felony involving moral turpitude, and the
24 judgment of the conviction, unless pending on appeal, is
25 conclusive evidence of unprofessional conduct;

1 (6) administering, dispensing, or prescribing a
2 narcotic or hallucinatory drug, as defined by the federal
3 food and drug administration or successors, otherwise than
4 in the course of legitimate or reputable professional
5 practice;

6 (7) conviction or violation of a federal or state law
7 regulating the possession, distribution, or use of a
8 narcotic or hallucinatory drug, as defined by the federal
9 food and drug administration, and the judgment or of
10 conviction, unless pending on appeal, is conclusive evidence
11 of unprofessional conduct;

12 (8) habitual intemperance or excessive use of narcotic
13 drugs, alcohol, or any other drug or substance to the extent
14 that the use impairs the user physically or mentally;

15 (9) conduct unbecoming a person licensed to practice
16 medicine or detrimental to the best interests of the public;

17 (10) resorting to fraud, misrepresentation, or
18 deception in the examination or treatment of a person or in
19 billing or reporting to a person, company, institution, or
20 organization;

21 (11) testifying in court on a contingency basis;

22 (12) conspiring to misrepresent or willfully
23 misrepresenting medical conditions improperly to increase or
24 decrease a settlement, award, verdict, or judgment;

25 (13) aiding or abetting in the practice of medicine a

1 person not licensed to practice medicine or a person whose
2 license to practice medicine is suspended;

3 (14) gross malpractice or negligent practice;

4 (15) practicing medicine as the partner, agent, or
5 employee of or in joint venture with a person who does not
6 hold a license to practice medicine within this state;
7 however, this does not prohibit the incorporation of an
8 individual licensee or group of licensees as a professional
9 service corporation under Title 35, chapter 4, nor does this
10 apply to a single consultation with or a single treatment by
11 a person or persons licensed to practice medicine and
12 surgery in another state or territory of the United States
13 or foreign country;

14 (16) violating or attempting to violate, directly or
15 indirectly, or assisting in or abetting the violation of or
16 conspiring to violate parts 1 through 3 of this chapter or
17 the rules authorized by them; or

18 (17) any other act, whether specifically enumerated or
19 not, which, in fact, constitutes unprofessional conduct."

20 Section 4. Section 37-5-101, MCA, is amended to read:

21 "37-5-101. Definitions -- practice of osteopathy. (1)
22 Unless the context requires otherwise, in this chapter the
23 following definitions apply:

24 (a) "Board" means the board of osteopathic physicians
25 provided for in 2-15-1607.

1 (b) "Department" means the department of professional
2 and occupational licensing provided for in Title 2, chapter
3 15, part 16.

4 (2) Every person ~~shall--be--deemed is~~ "practicing
5 osteopathy" within the meaning of this chapter who ~~shall~~:

6 (a) ~~append appends~~ to or use ~~uses~~ in connection with
7 his or her name the words "doctor of osteopathy, ~~diplomate~~
8 ~~diplomate~~ of osteopathy, osteopath, osteopathist,
9 osteopathic practitioner, osteopathic physician", or words
10 of like import or any abbreviation thereof or the letters
11 "D.O."; or

12 (b) ~~profess professes~~ publicly to or ~~who~~, either on
13 his own behalf, in his own name or in his trade name, or in
14 behalf of any other person, corporation, association,
15 partnership (as manager, bookkeeper, practitioner, or
16 agent), ~~treat treats~~, cure ~~cures~~, ~~alleviate alleviates~~, or
17 ~~relieve relieves~~ any ailment or disease of either mind or
18 body or cure ~~cures~~ or ~~relieve relieves~~ any fracture or
19 misplacement or abnormal condition or bodily injury or
20 deformity by any treatment or manipulation or method of
21 manipulating a human body or any of its limbs, muscles, or
22 parts by the use of the hands or mechanical appliances in an
23 effort or attempt to relieve any pressure, obstruction,
24 misplacement, or defect in any bone, muscle, ligament,
25 nerve, vessel, organ, or part of the body, after having

received or with the intent or expectation of receiving therefor, either directly or indirectly, any bonus, gift, or compensation whatsoever; provided, however, that nothing in this section ~~shall--be--construed-to-restrain~~ restrains or ~~restrict~~ restricts restrict any legally licensed physician or surgeon in the practice of his profession."

Section 5. Section 37-5-102, MCA, is amended to read:

"37-5-102. Osteopathy not practice of medicine. The system, method, or science of treating diseases of the human body commonly known as osteopathy is not the practice of medicine or surgery within the meaning of chapter 3, parts 1 through 3 and is not subject to the provisions of that chapter those parts."

Section 6. Section 37-6-311, MCA, is amended to read:

"37-6-311. Refusal or revocation of license. ~~(1) After notice and opportunity for a hearing, the the board may, after notice and opportunity for a hearing, deny, revoke, or refuse to grant, renew, or it may revoke a license under this chapter to a person otherwise--qualified--who--obtained the--license--by for any of the following causes:~~

(a) fraudulent representation--for in obtaining the license;

(b) incompetency in practice; for

(c) use of untruthful or improbable statements to patients or in his advertisements; for

(d) habitual intoxication; for
(e) unprofessional and immoral conduct; or for
(f) selling or giving away alcohol or drugs for an illegal purpose; but

~~(2) However,~~ the board may authorize the department to grant or reissue a such license after 6 months if in its judgment the act, acts, or conditions of disqualification have been remedied."

Section 7. Section 37-7-101, MCA, is amended to read:

"37-7-101. Definitions. Unless the context requires otherwise, in parts 1 through 3 of this chapter the following definitions apply:

(1) "Board" means the board of pharmacists provided for in 2-15-1609.

(2) "Chemical" means medicinal or industrial substances, whether simple, compound, or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.

(3) "Commercial purposes" means the ordinary purposes of trade, agriculture, industry, and commerce, exclusive of the practices of medicine and pharmacy.

(4) "Department" means the department of professional and occupational licensing provided for in Title 2, chapter 15, part 16.

(5) (a) "Drug" means:

(i) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or a supplement to them;

(ii) articles intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(iii) articles (other than food) intended to affect the structure or function of the body of man or other animals; and

(iv) articles intended for use as a component of an article specified in subsection (i), (ii), or (iii).

(b) "Drug" does not include devices or their components, parts, or accessories.

(6) "Intern" means a natural person licensed by the department to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons in a pharmacy having a pharmacist in charge.

(7) "Medicine" means a remedial agent which has the property of curing, preventing, treating, or mitigating diseases or which is used for this purpose.

(8) "Person" includes an individual, partnership, corporation, or association.

(9) "Pharmacist" means a natural person licensed by the department to prepare, compound, dispense, and sell

drugs, medicines, chemicals, and poisons and who may affix to his name the term "REG-PH BaPha"

(10) "Pharmacy" means a drug-store ~~drugstore~~ or other established place registered by the department of professional and occupational licensing, in which prescriptions, drugs, medicines, chemicals, and poisons are compounded, dispensed, vended, or sold at retail.

(11) "Poison" means a substance which, when introduced into the system, either directly or by absorption, produces violent, morbid, or fatal changes or which destroys living tissue with which it comes in contact.

(12) "Prescription" means an order given individually for the person for whom prescribed, directly from the prescriber to the furnisher or indirectly to the furnisher, by means of an order signed by the prescriber and bearing the name and address of the prescriber, his license classification, the name of the patient, the name and the quantity of the drug or drugs prescribed, the directions for use and the date of its issue. These stipulations apply to both written and telephoned prescriptions.

(13) "Wholesale" means a sale for the purpose of resale."

Section 8. Section 37-7-104, MCA, is amended to read:

"37-7-104. Qualifications of employee hired to assist board. A person hired by the department to enter and inspect

1 an establishment under this chapter; to examine the books of
2 a manufacturer, druggist, storekeeper, wholesaler,
3 pharmacist, or intern; to assist in a prosecution under this
4 chapter; and to assist the board in supervising internships,
5 reciprocity agreements, professional correspondence, and
6 examinations shall be:

7 (1) a citizen of the United States and a resident of
8 this state; and

9 (2) a pharmacist registered under this chapter, with
10 at least 5 years of practical experience."

11 Section 9. Section 37-7-301, MCA, is amended to read:

12 "37-7-301. Sale of drugs, ~~or~~ medicines unlawful except
13 as provided. (1) It ~~shall be~~ is unlawful for any person to
14 compound, dispense, vend, or sell at retail drugs,
15 medicines, chemicals, or poisons in any place other than a
16 pharmacy, except as hereinafter provided.

17 (2) It ~~shall be~~ is unlawful for any proprietor, owner,
18 or manager of a pharmacy or any other person to permit the
19 compounding or dispensing of prescriptions or the vending or
20 selling at retail of drugs, medicines, chemicals, or poisons
21 in any pharmacy except by a registered and licensed
22 pharmacist or by an intern in the temporary absence of such
23 pharmacist.

24 (3) It ~~shall be~~ is unlawful for any person ~~falsely~~ to
25 assume or pretend to the title of pharmacist or intern

1 unless such person has a license as such ~~is~~ issued and in
2 force pursuant to ~~the terms of~~ parts 1 through 3 of this
3 chapter.

4 (4) It ~~shall be~~ is unlawful for any person other than
5 a licensed and registered pharmacist or a licensed and
6 registered intern to compound, dispense, vend, or sell at
7 retail drugs, medicines, chemicals, or poisons except as
8 provided in parts 1 through 3."

9 Section 10. Section 37-7-311, MCA, is amended to read:

10 "37-7-311. Revocation of license issued to pharmacist
11 or intern. The board shall revoke, temporarily or
12 permanently, licenses issued by the department to a
13 pharmacist or intern whenever the holder of the license:

14 (1) has obtained it by false representations or fraud;

15 (2) is an habitual drunkard or addicted to the use of
16 narcotic drugs;

17 (3) has been convicted of a felony;

18 (4) has been convicted of violating the pharmacy law;
19 or

20 (5) has been found by the board guilty of incompetency
21 in the preparation of prescriptions or guilty of gross
22 immorality affecting the discharge of his duties as a
23 pharmacist or ~~assistant intern~~."

24 Section 11. Section 37-15-102, MCA, is amended to
25 read:

"37-15-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means the board of speech pathologists and audiologists provided for in 2-15-1615.

(2) "Department" means the department of professional and occupational licensing provided for in Title 2, chapter 15, part 16.

(3) "Speech pathologist" means one who practices speech pathology and who presents himself to the public by any title or description of services incorporating the words "speech pathologist", "speech correctionist", "speech therapist", "speech clinician", "language pathologist", "language therapist", "language clinician", or any similar title or description of services.

(4) "Speech pathology aide" means any person meeting the minimum requirements established by the board of speech pathologists and audiologists who works directly under the supervision of a licensed speech pathologist.

(5) "Audiologist" means a person who practices audiology and who presents himself to the public by any title or description of services incorporating the words "audiologist", "hearing clinician", "hearing therapist", or any similar title or description of service services.

(6) "Audiology aide" means any person meeting the minimum requirements established by the board of speech

pathologists and audiologists who works directly under the supervision of a licensed audiologist.

(7) "Practice of speech pathology" means the application of principles, methods, and procedures for the measurement, testing, evaluation, prediction, counseling, or instruction related to the development and disorders of speech, voice, or language for the purpose of evaluating, preventing, habilitating, rehabilitating, or modifying such disorders and conditions in individuals or groups of individuals.

(8) "Practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, and instruction related to hearing and hearing impairment for the purpose of modifying communicative disorders involving speech, language, or auditory function, including auditory behavior related to hearing impairment.

(9) "Association" means the Montana speech and hearing association.

(10) "ASHA" means the American speech and hearing association.

(11) "Unethical conduct" means:

(a) the obtaining of any fee by fraud or misrepresentation;

(b) employing, directly or indirectly, any suspended

1 or unlicensed person to perform any work covered by this
2 chapter unless that person assumes the legal status of a
3 supervised aide;

4 (c) using or causing or promoting the use of any
5 advertising matter, promotional literature, testimonial,
6 guarantee, warranty, label, brand, insignia, or any other
7 representation, however disseminated or published, which is
8 misleading, deceiving, improbable, or untruthful.

9 (12) "Provisionally licensed speech pathologist or
10 audiologist" means those speech pathologists or audiologists
11 currently practicing the profession in the state who do not
12 meet the minimum requirements for licensure as defined in
13 this chapter and who are eligible for provisional licensure
14 conditioned on biennial evidence of satisfactory progress
15 toward meeting the requirements for licensure as provided in
16 this chapter. This provisional licensure, as defined in this
17 chapter, shall ~~may~~ exist for no longer than 6 years from the
18 ~~date-of-enactment-of-this-chapter July 1, 1975,~~ under any
19 circumstance."

20 Section 12. Section 37-16-203, MCA, is amended to
21 read:

22 "37-16-203. Compensation of members -- expenses. Each
23 member of the board shall receive \$20 a day compensation
24 when actually engaged in the discharge of his official duty
25 and in addition shall ~~also~~ be reimbursed for travel expense,

1 as provided for in 2-18-501 through 2-18-503, in attending a
2 meeting of the board in the state."

3 Section 13. Section 37-17-102, MCA, is amended to
4 read:

5 "37-17-102. Definitions. Unless the context requires
6 otherwise, in this chapter the following definitions apply:

7 (1) "Accredited college or university" means a college
8 or university accredited by the regional accrediting
9 association for institutions of higher learning, such as the
10 northwest association of secondary and higher schools.

11 (2) "Board" means the board of psychologists provided
12 for in 2-15-1617.

13 (3) "Department" means the department of professional
14 and occupational licensing, provided for in Title 2, chapter
15 15, part 16.

16 (4) A person represents himself to be a "psychologist"
17 when he holds himself out to the public by a title or
18 description of services incorporating the words
19 "psychologist", "psychological", "psychologic", or
20 "psychology" and offers to render or renders psychological
21 services defined in subsection (5) of this section to
22 individuals, groups, corporations, or the public for
23 compensation or fee.

24 (5) "Practice of psychology" means the application of
25 principles, methods, and procedures of understanding,

1 predicting, and influencing behavior, such as the principles
 2 pertaining to learning, perception, motivation, thinking,
 3 motions emotions, and interpersonal relationship; the
 4 methods and procedures of interviewing, counseling, and
 5 behavior modification, including psychotherapeutic
 6 techniques and hypnosis; and constructing, administering,
 7 and interpreting tests of mental abilities, aptitudes,
 8 interests, attitudes, personality characteristics, emotions,
 9 and motivation."

10 Section 14. Section 37-17-104, MCA, is amended to
 11 read:

12 "37-17-104. Exemptions. This chapter does not prevent:

13 (1) qualified members of other professions, such as
 14 physicians, social workers, lawyers, pastoral counselors, or
 15 educators, from doing work of a psychological nature
 16 consistent with their training and the codes of ethics of
 17 their respective professions if they do not hold themselves
 18 out to the public by a title or description incorporating
 19 the words "psychology" or "psychologist";

20 (2) the activities, services, and use of an official
 21 title on the part of a person in the employ of a federal,
 22 state, county, or municipal agency or of other political
 23 subdivisions or an educational or charitable institution
 24 insofar as these activities and services are a part of the
 25 duties of his office or position with the agency or

1 institution;

2 (3) the activities and services of a student, intern,
 3 or resident in psychology pursuing a course of study at an
 4 accredited university or college or working in a generally
 5 recognized training center if these activities and services
 6 constitute a part of his supervised course of study;

7 (4) the activities and services of a person who is not
 8 a resident of this state in rendering consulting
 9 psychological services in this state when these services are
 10 rendered for a period which does not exceed, in the
 11 aggregate, more--than 60 days during a calendar year if the
 12 person is authorized under the laws of the state or country
 13 of his residence to perform these activities and services;
 14 however, these persons shall report to the department the
 15 nature and extent of the services in this state if they
 16 exceed 10 days in a calendar year;

17 (5) a person authorized by the laws of the state or
 18 country of his former residence to perform activities and
 19 services, who has recently become a resident of this state
 20 and who has applied for a license in this state, ~~from~~
 21 performing such activities and services pending disposition
 22 of his application;

23 (6), the use of the term "social psychologist" by a
 24 person who:

25 (a) has been graduated with a doctoral degree in

sociology or social psychology from an institution and whose credits in sociology or social psychology are acceptable by a recognized educational institution;

(b) has passed comprehensive examinations in the field of social psychology as part of the requirement for the doctoral degree or who has had equivalent specialized training in social psychology; and

(c) has filed with the department a statement of facts demonstrating his compliance with this subsection;

(7) the offering of lecture services for a fee by a person exempted from licensing requirements by virtue of his employment;

(8) activities of a psychological nature on the part of persons ~~a person~~ who are ~~is a~~ salaried employees ~~employee~~ of ~~an~~ accredited academic institutions ~~institution~~, governmental agencies ~~agency~~, research laboratories ~~laboratory~~, and ~~or~~ business corporations ~~corporation~~ if these--employees--are ~~he is~~ performing the duties for which they are ~~he is~~ employed by the organizations ~~organization~~ within the confines of the organization."

Section 15. Section 37-31-203, MCA, is amended to read:

"37-31-203. Rulemaking powers. The board shall prescribe rules for:

(1) the conduct of its business;

(2) the qualification, examination, and registration of applicants to practice or teach cosmetology;

~~(3) the qualification and registration of~~ applicants for manager-operator licenses;

~~(4) (5)~~ the regulation and instruction of apprentices and students;

~~(4) (5)~~ the conduct of schools of cosmetology for apprentices and students; and

~~(5) (6)~~ generally the conduct of the persons, firms, or corporations affected by this chapter."

Section 16. Section 37-31-322, MCA, is amended to read:

"37-31-322. Renewal -- continuing education -- delinquency fee. (1) Licenses and certificates shall ~~may~~ be issued for no longer than 1 year unless otherwise provided by rule. Licenses and certificates expire on December 31 unless otherwise provided by rule or renewed for the next year or renewal period. Licenses and certificates may be renewed by application made prior to December 31 of each year, unless otherwise provided, and the payment of a required renewal fee. Expired licenses and certificates may be renewed under rules made by the board, but the right to renew an expired license or certificate terminates after 10 years of nonpayment. The board may provide by rule for a change in the renewal date and renewal period for the

1 manager-operator and salon owner category. The renewal fee
2 may not exceed twice the fee for a 2-year renewal or three
3 times the fee for a 3-year renewal and shall be as set by
4 the board.

5 (2) In addition to the foregoing requirements for
6 renewal, persons applying for the renewal of teachers'
7 licenses must have fulfilled the following additional
8 requirements:

9 (a) During each year, an active teachers, either
10 full-time or part-time, must have successfully completed 30
11 hours ~~hours~~ professional teacher training at a school
12 approved by the board ~~as a prerequisite to the renewal of~~
13 ~~the teacher's license.~~

14 (b) A person holding a teacher's license but not
15 actively engaged either full-time or part-time in teaching
16 cosmetology during the preceding year may renew the license
17 by paying the required fee. A person holding a teacher's
18 license but not actively engaged in teaching cosmetology
19 either full-time or part-time for the preceding year or
20 longer and wishing to resume active teaching of cosmetology
21 must successfully complete 30 hours ~~hours~~ professional
22 teachers' training at a school approved by the board before
23 resuming active ~~teachers' training teaching.~~ However, the
24 foregoing provisions do not prevent the board, under rules
25 it adopts, from permitting a person holding a teacher's

1 license and not actively engaged either full-time or
2 part-time in teaching cosmetology from teaching as a
3 substitute for an active teacher.

4 (3) A fee of \$10 shall be charged, in addition to
5 other fees fixed by law, for renewal applications of
6 licenses and certificates made after December 31 of each
7 year or other predetermined renewal deadline. The department
8 shall notify license and certificate holders of the
9 expiration date of licenses and certificates not less than
10 30 days before the expiration date and call attention to the
11 penalty imposed for failure to renew a license or
12 certificate by the date of expiration."

13 Section 17. Section 37-40-307, MCA, is amended to
14 read:

15 "37-40-307. Sanitarian practicing prior to effective
16 date. ~~All persons~~ A person having practiced as a sanitarian,
17 ~~as defined by 37-40-101(5),~~ for 1 year prior to July 1,
18 1974, may be registered as ~~saniterions~~ a sanitarian upon
19 making application and ~~payment of~~ paying the required fee."

20 Section 18. Section 37-41-102, MCA, is amended to
21 read:

22 "37-41-102. Exemptions. The license provisions of this
23 chapter do not apply to any county or municipality or other
24 local, state, or federal governmental agency which desires
25 to clean septic tanks, cesspools, or privies publicly owned

1 or controlled by them. However, counties and municipalities
2 or other local, state, or federal governmental agencies
3 shall comply with rules adopted by the department for
4 cleaning cesspools, septic tanks, or privies and disposal of
5 of wastes from cesspools, septic tanks, or privies."

6 Section 19. Section 37-43-302, MCA, is amended to
7 read:

8 "37-43-302. License required. The drilling, making, or
9 construction of water wells into the groundwater resources
10 of this state is declared to be a business and activity
11 affecting the public interest, requiring reasonable
12 standards of competence. It ~~shall be~~ is unlawful for any
13 person ~~contractor~~, as defined in this chapter, to construct
14 a water well without first having obtained a valid license
15 therefor as provided for herein in this chapter."

16 Section 20. Section 37-50-308, MCA, is amended to
17 read:

18 "37-50-308. Examination. Except as provided in
19 37-1-101(4), the department shall hold and grade a written
20 examination in accounting, auditing, and related subjects as
21 the board determines appropriate. The grade determination of
22 the department is final in each case. The department shall
23 use the examination and grading services of the American
24 institute of certified public accountants. The examination
25 ~~shall~~ must be held at least annually and at such other times

1 as applications warrant. The board may determine the time
2 and place of examination and may adopt rules necessary for
3 the orderly conduct of the examination."

4 Section 21. Section 37-51-308, MCA, is amended to
5 read:

6 "37-51-308. Broker's office -- notice to department of
7 change of address. (1) A resident licensed broker shall
8 maintain a fixed office in this state. The original license
9 of the broker and the original license of each salesman in
10 the employ of or under contract with the broker shall be
11 prominently displayed in the office. The address of the
12 office and a any branch office shall be designated on the
13 broker's license.

14 (2) In case of removal from the designated address,
15 the licensee shall notify the department before removal or
16 within 10 days thereafter, designating the new location of
17 this office and paying the required fee, whereupon a license
18 for the new location ~~for the unexpired period shall~~ must be
19 issued for the unexpired period."

20 Section 22. Section 37-60-304, MCA, is amended to
21 read:

22 "37-60-304. Qualifications of applicants. Before an
23 application ~~for~~ a license is granted, the applicant or his
24 manager shall meet all of the following:

25 (1) be at least 18 years of age;

1 (2) be a citizen of the United States and a resident
2 of the state of Montana;

3 (3) be of good moral character and temperate habits;
4 and

5 (4) comply with such other qualifications concerning
6 training, education, or experience as the director may fix
7 by rule."

8 Section 23. Section 37-61-409, MCA, is amended to
9 read:

10 "37-61-409. Penalty for violation. An attorney and
11 counselor who violates ~~37-61-407 or~~ 37-61-408~~(1)~~ is guilty
12 of a misdemeanor and on conviction thereof shall be punished
13 accordingly and must be removed from office by the supreme
14 court."

15 Section 24. Section 37-66-103, MCA, is amended to
16 read:

17 "37-66-103. Definitions. As used in this chapter, the
18 following definitions apply:

19 (1) "Board" means the board of landscape architects
20 provided for in 2-15-1652.

21 (2) "Department" means the department of professional
22 and occupational licensing provided for in Title 2, chapter
23 15, part 16.

24 (3) "Education" means time spent as a student enrolled
25 in a college or school curriculum of landscape architecture

1 accredited by the American society of landscape architects
2 and other college or university training the board may
3 approve.

4 (4) "Experience" means full-time employment as a
5 landscape architect or doing landscape architectural work
6 under the supervision of a registered landscape architect or
7 a landscape architect qualified for registration in Montana.
8 All experience is subject to approval by the board.

9 (5) "Landscape architect" means a person who holds a
10 certificate to practice landscape architecture in the state
11 of Montana under the provisions of this chapter.

12 (6) "Practice of the profession of landscape
13 architecture" means performing services in connection with
14 the analysis or development of land areas where and to the
15 extent that the dominant purpose of such services is the
16 preservation, enhancement, or determination of proper land
17 uses, natural land features, ground cover and planting,
18 naturalistic and aesthetic values, the settings, approaches,
19 or environment for structures or other improvements, natural
20 drainage, and the consideration and determination of
21 inherent problems of the land relating to erosion, wear and
22 tear, blight, or other hazards. This practice ~~shall include~~
23 includes the location and arrangement of such tangible
24 objects and features as are incidental and necessary to the
25 purposes outlined herein but ~~shall~~ does not include the

1 design of structures or facilities with separate and
 2 self-contained purposes that are ordinarily included in the
 3 practice of engineering or architecture and ~~shall~~ does not
 4 include the making of land surveys or final land plats for
 5 official approval or recording.

6 (7) "Training" means a period of at least 6 years of
 7 experience and/or education ~~of at least 6 years~~ as defined
 8 herein."

9 Section 25. Section 37-67-101, MCA, is amended to
 10 read:

11 "37-67-101. Definitions. As used in this chapter, the
 12 following definitions apply:

13 (1) "Board" means the board of professional engineers
 14 and land surveyors provided for in 2-15-1653.

15 (2) "Department" means the department of professional
 16 and occupational licensing provided for in Title 2, chapter
 17 15, part 16.

18 (3) "Engineer-in-training" means a person who complies
 19 with the requirements for education, experience, and
 20 character and has passed an examination in the fundamental
 21 engineering subjects, as provided in this chapter.

22 (4) "Land surveyor" means a person who has been duly
 23 registered and licensed as a land surveyor by the board and
 24 is a professional specialist in the technique of measuring
 25 land, educated in the basic principles of mathematics,

1 related physical and applied sciences, and relevant
 2 requirements of law for adequate evidence and all requisites
 3 to the surveying of real property and is engaged in the
 4 practice of land surveying as herein defined.

5 (5) "Land surveyor-in-training" means a person who has
 6 qualified for, taken, and passed an examination on the basic
 7 disciplines of land surveying as provided in this chapter.

8 (6) "Practice of engineering" means any service or
 9 creative work the adequate performance of which requires
 10 engineering education, training, and experience in the
 11 application of special knowledge of the mathematical,
 12 physical, and engineering sciences to such services or
 13 creative work as consultation, investigation, evaluation,
 14 planning and design of engineering works and systems,
 15 planning the use of water, teaching of advanced engineering
 16 subjects, engineering surveys, and the inspection of
 17 construction for the purpose of assuring compliance with
 18 drawings and specifications; any of which embraces such
 19 services or work, either public or private, in connection
 20 with any utilities, structures, buildings, machines,
 21 equipment, processes, work systems, projects, and industrial
 22 or consumer products or equipment of mechanical, electrical,
 23 hydraulic, pneumatic, or thermal nature insofar as they
 24 involve safeguarding life, health, or property and including
 25 such other professional services as may be necessary to the

1 planning, progress, and completion of any engineering
2 services. The term does not include the work ordinarily
3 performed by persons who operate or maintain machinery or
4 equipment, communication lines, signal circuits, electric
5 powerlines, or pipelines.

6 (7) "Practice of land surveying" means any service or
7 work, the adequate performance of which requires the
8 application of knowledge of the principles of mathematics,
9 physical sciences, applied sciences, and:

10 (a) the principles of property boundary law to the
11 recovery and preservation of evidence pertaining to earlier
12 land surveys;

13 (b) teaching of land surveying subjects;

14 (c) measurement and allocation of lines, angles, and
15 elevations;

16 (d) location of natural and manmade features in the
17 air, on the surface of the earth, within underground
18 workings, and on the beds of bodies of water, including such
19 work for the determination of areas and volumes;

20 (e) monumenting of property boundaries;

21 (f) platting and layout of lands and the subdivisions
22 thereof, including the alignment and grades of streets and
23 roads therein; and

24 (g) preparation and perpetuation of maps, plats, field
25 note records, and property descriptions.

1 (8) "Professional engineer" means a person who, by
2 reason of his special knowledge and use of the mathematical,
3 physical, and engineering sciences and the principles and
4 methods of engineering analysis and design acquired by
5 engineering education and engineering experience, is
6 qualified to practice engineering and who has been duly
7 registered and licensed as a professional engineer by the
8 board.

9 (9) "Responsible charge" means direct control and
10 personal supervision either of engineering work or of land
11 surveying, as the case may be. Only professional engineers
12 or land surveyors may legally assume responsible charge
13 under this chapter."

14 Section 26. Section 37-67-319, MCA, is amended to
15 read:

16 "37-67-319. Temporary permits for nonresident
17 practitioners. Temporary permits are governed by the
18 following:

19 (1) ~~Such a permit may be granted for the the~~ practice
20 or offer to practice engineering by a person not a resident
21 of or having no established place of business in this state,
22 provided such person is legally qualified by registration to
23 practice engineering in his own state or country, provided
24 the requirements for registration in his home state or
25 country are not less than those defined in this chapter.

1 Such person shall make application to the board in writing.
 2 The application must be accompanied by a fee set by the
 3 board. Upon approval by the board, such person may be
 4 granted a written permit for a definite period of time not
 5 to exceed 1 year to do a specific job; provided, however, no
 6 right to practice engineering shall accrue to such applicant
 7 with respect to any other works not set forth in said ~~the~~
 8 permit.

9 (2) The practice of land surveying under a temporary
 10 permit by a person registered as a land surveyor in another
 11 state is not considered to be in the best interests of the
 12 public and, therefore, ~~shall~~ ~~may~~ not be granted."

13 Section 27. Section 37-69-103, MCA, is amended to
 14 read:

15 "37-69-103. No penalty for hiring unlicensed plumber.
 16 This chapter ~~shall~~ ~~may~~ not be construed as imposing any
 17 penalty on any unlicensed person for hiring or contracting
 18 with an unlicensed person to do work in the field of
 19 plumbing. However, any person who ~~shall~~ himself engage
 20 ~~engages~~ in the field of plumbing at a time when he is not
 21 duly licensed ~~shall-be~~ ~~is~~ subject to the penalties imposed
 22 by this chapter."

23 Section 28. Section 37-70-203, MCA, is amended to
 24 read:

25 "37-70-203. Compensation and expenses. Each member of

1 the board is entitled to \$25 per day for each day served
 2 discharging his board duties, together with a per diem and
 3 mileage expense allowance pursuant to 2-18-501 and ~~through~~
 4 2-18-503. No member of the board ~~shall~~ ~~may~~ be allowed
 5 compensation in addition to his present compensation from
 6 the state."

7 Section 29. Repealer. Sections 66-1701 through
 8 66-1714, R.C.M. 1947, are repealed.

-End-